IN THE UNITED STATES DISTRICT COURT

FOR THE

NORTHERN DISTRICT OF WEST VIRGINIA

FILED

OCT 14 2020

U.S. DISTRICT COURT-WVND
CLARKSBURG, WV 26301

JOSEPH L. WESTFALL,

Plaintiff

v.   // CIVIL ACTION NO. 1:20CV207

                                                        (JUDGE KLEEH)

DONALD J. TRUMP,

President, Individually and

Official Capacities, and

STEVEN T. MNUCHIN,

Secretary, U.S. Treasury, Individually

and Official Capacity

Defendants

OBJECTIONS TO
THE REPORT AND RECOMMENDATION

Clearly Erroneous

"Because of Plaintiff's failure to comply with this order"[PG 1 OF 8]

Michael John Aloi United States Magistrate Judge (USMJ)

"On September 17, 2020, Plaintiff filed a Response to the Order to Show Cause"[pg 3 of 8](USMJ)

a\ One cannot fail to comply when one files a Response to the Order to Show Cause, as the plaintiff did and is self evident by record.

"Plaintiff cites the notion that *pro se* documents must be liberally construed "however inartfully pleaded"

b\ As written by USMJ *pro se* documents must be liberally construed, are taken as plaintiff's words. They are not.

*Against this backdrop, we now consider whether respondent's complaint states a cognizable 1983 claim. The handwritten **pro se document is to be liberally construed**. As the Court unanimously held in Haines v. Kerner, 404 U.S. 519 (1972), a pro se complaint, "however inartfully pleaded," must be held to "less stringent standards than formal pleadings drafted by lawyers" **and can only be dismissed for failure to state a claim** if it appears "beyond doubt that the plaintiff can prove no set*

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of facts in support of his claim which would entitle him to relief.'" Id., at 520-521, quoting Conley v. Gibson, 355 U.S. 41, 45 -46 (1957).

No. 19-5331
COMMITTEE ON THE JUDICIARY OF THE UNITED STATES HOUSE OF REPRESENTATIVES,
APPELLEE
v.
DONALD F.MCGAHN, II,
APPELLANT

GRIFFITH, *Circuit Judge*: In *Committee on the Judiciary v. McGahn*, 2020 WL 4556761 (Aug. 7, 2020)

wrote,
"The expression of one thing implies the exclusion of the other,"
this is from the rule of law in the Latin "Expressio unius exclusio alterius"
"and can only be dismissed for failure to state a claim"

Plaintiff has shown "taxpayer's adjusted gross income" does not exceed the minimum $75,000.00 and claims ELIGIBLE INDIVIDUAL status

"Pursuant to Title 18 United States Code, Section 1914," USMJ [pg 3&4 of 8]

c\ Plaintiff maybe mistaken but is under the impression that Title 18 is Criminal not Civil unfamiliar with the citation a search shows
"18 U.S. Code [§ 1914. Repealed. Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126]"
U.S. Code
- Title 18. CRIMES AND CRIMINAL PROCEDURE
- Part I. CRIMES
- Chapter 93. PUBLIC OFFICERS AND EMPLOYEES
  https://www.law.cornell.edu/uscode/text/18/1914

d\ **Reductio ad absurdum**
Note 3 bottom of pg 4 of 8
The $400.00 which could be waived by the court is to be deposited in special fund of the Treasury. Plaintiff is to pay the Defendants in order to be heard by an Article 3 Court asking for an order compelling the Article 2 Officers to uphold the oath of office and "take care that the laws be faithfully executed" and pay the plaintiff the Commanded $1,200.00 of the CARES ACT

"the payment of court costs imposes a substantial burden" *See* Ryan v Astrue ..USMJ [pf 5 of8]
e\ **SUBSTANTIAL BURDERN**
"Plaintiff included W2s" [pg 2of 8] USMJ
In Complaint filed pg 6 of 6 plaintiff submitted 1 W2 and 2 weekly payroll check stubs 1 showing $411.30 (bottom cutoff) and the other $441.53 take home. This shows the fee is 97.25% of the former and 90.59% of the latter
Pro Se Packett 080811_4pdf
> I swear or affirm under penalty of perjury that,
> because of my poverty, I cannot prepay the docket
> fees of my action or post a bond for them. I
> believe I am entitled to redress. I swear or affirm
> under penalty of perjury under United States laws
> that my answers on this form are true and correct
> (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

downloaded by plaintiff on August 7, 2020 {copy included} does not use the phrase substantial burden

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18 U.S.C.1621 is a criminal statue by signing the form as it is worded

one would violate their 5th and is compelled to be a witness against himself

" nor shall be compelled in any criminal case to be a witness against himself,"
as it is worded "I am entitled to redress."
This is a complaint against two Executive Branch Officers for gross incompetence or willful neglect
in their official capacities, a first amendment redress of grievances and the recommended dismal would
be a punishment for exercising a protected right.

f\ USMJ does not mention Addendum to Response dated 9-27-2020
this was sent to the court it is a letter from the I.R.S. Stating hoops for plaintiff to jump through. Hoops
that are expressed in the law.
   "free of cases that remain dormant because of inaction or dilatoriness of the parties"[pg 6 of 8]USMJ
is a false accusation against the pro se plaintiff

g\ Today October 10, 2020 is 56 days since I wrote and mailed Complaint dated August 15, 2020 I have
received run around by Court, a false and misleading letter from the I.R.S., but no Answer from
defendants. This is a violation of
Canon 3A(5). In disposing of matters promptly,

efficiently, and fairly,

a judge must demonstrate due regard for the rights of the parties

to be heard and to have issues resolved

without unnecessary cost or delay.

Further

It is the hope of the plaintiff that Judge Kleeh see this as a redress of grievance under the first
amendment, and a pro se compliant non dismiss-able for any reason other than failure to state a claim
as ruled by the Supreme Court of the United States and the Rule of Law "Expressio unius exclusio
alterius"

   Lastly 9 million people may not have received the Cares Act $1.200.00 making this an important class
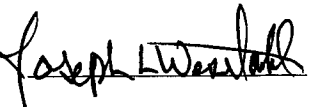action. A deadline of December 31, 2020 approaches quickly in 82 days by law
   " *No refund or credit shall be made or allowed under this subsection*

after December 31, 2020."
contrary to letter from I.R.S.(copy submitted with document dated 9-27-2020)
""*you may instead be able to claim a recovery rebate credit when you file your 2020 federal income tax
return in 2021.*"

An injuction to the ads, letters and taxpayer money spent on them may be approiate. Plaintiff has numerous
questions that can only be answered with the Court's help

Joseph L. Westfall 10-10-2020

Joseph L. Westfall October 10, 2020

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UNITED STATES DISTRICT COURT
Northern District of West Virginia

_____

Plaintiff,

V.

_____

Defendant.

APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT

CASE NUMBER:

YOU MUST COMPLETE THIS FORM FOR YOU, YOUR SPOUSE AND ALL PERSONS OVER 18 LIVING IN THE RESIDENCE WHERE YOU LIVE

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my action or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: _____

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: _____

1. *For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amount, that is amounts before any deductions for taxes or otherwise.*

Income Source	Average Monthly Amount during the past 12 months			Amount expected next month		
	You	Spouse	Other Adult*	You	Spouse	Other Adult*
Employment	$____	$____	$____	$____	$____	$____
Self-Employment	$____	$____	$____	$____	$____	$____
Income from real property (such as rental income)	$____	$____	$____	$____	$____	$____
Interest and dividends	$____	$____	$____	$____	$____	$____
Gifts	$____	$____	$____	$____	$____	$____

* Other adult living where you reside

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TKW